

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

ISRAEL RIOS,

Plaintiff,

v.

NP JOSEPH DRAGON, ET. AL.,

Defendants.

Case No. 2:20-cv-00146-ADA-HBK (PC)

ORDER REAPPOINTING COUNSEL

Plaintiff, a prisoner proceeds on his First Amended Complaint as screened. (Doc. Nos. 46, 63). A related action remains pending in case number 1:19-cv-01009-ADA-HBK (E.D. Cal. 2019) (“first filed case”). In the first filed case, Plaintiff had filed objections to a findings and recommendations, which the Court construed to include a motion to appoint counsel in the first filed case and indicated that the Court may have mistakenly relieved previously appointed counsel in the instant action.<sup>1</sup> (See Case No. 1:19-cv-01009-ADA-HBK, Doc. Nos. 33, 37).

While the United States Constitution does not require the appointment of counsel in a civil case, motions to appoint counsel may be granted when “exceptional circumstances” exist. See *Lewis v. Casey*, 518 U.S. 343, 354 (1996) (explaining *Bounds v. Smith*, 430 U.S. at 817, did not create a right to appointment of counsel in civil cases); see also *United States v. McQuade*, 519

<sup>1</sup> The Court relieved counsel in an order dated August 19, 2022. (Doc. No. 60)(citing Doc. No. 53 at 3).

1 F.2d 1180, 81 (9th Cir. 1978). Further, the court may consider many factors to determine if  
2 exceptional circumstances warrant appointment of counsel including, but not limited to, proof of  
3 indigence, the likelihood of success on the merits, and the ability of the plaintiff to articulate his  
4 or her claims pro se considering the complexity of the legal issues involved. *McQuade*, 519 F.2d  
5 at 1181; *see also Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997), withdrawn in part on  
6 other grounds on reh'g en banc, 154 F.2d 952 (9th Cir. 1998).

7 Here, the Court finds exceptional circumstances exist. A complicated motion to  
8 consolidate cases remains pending in both the first filed and in the instant actions. And, the  
9 previously assigned magistrate judge had found exceptional circumstances for a limited  
10 appointment, selecting Carter C. White and the King Hall Civil Rights Clinic from the Court's  
11 pro bono attorney panel to represent Plaintiff for the limited purpose of filing the FAC. (Doc. No.  
12 43). Carter C. White agrees to being reappointed in this case to represent Plaintiff.

13 Accordingly, it is **ORDERED**:

14 The Court reappoints Carter C. White and King Hall Civil Rights Clinic as counsel in this  
15 action. Appointed counsel shall notify Sujean Park via email at spark@caed.uscourts.gov if he  
16 has any questions related to appointment.

17  
18 Dated: November 2, 2022

  
19 HELENA M. BARCH-KUCHTA  
20 UNITED STATES MAGISTRATE JUDGE  
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